Supreme Court, U. S.
FILED
SEP 2 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

NO. 75-337

FREDERICK W. COPELAND,
Petitioner

versus

PEOPLE OF THE STATE OF FLORIDA, GOVERNOR OF FLORIDA, ATTORNEY GENERAL OF FLORIDA,
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

FREDERICK W. COPELAND
P.O. Box 523
Crystal River, Florida
32629

Attorney for Petitioner

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IN THE SUPREME COURT
OF THE UNITED STATES

NO.

FREDERICK W. COPELAND,
Petitioner

versus

PEOPLE OF THE STATE OF FLORIDA,
GOVERNOR OF FLORIDA,
ATTORNEY GENERAL OF FLORIDA
Respondents

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT

Appeal from the United States District
Court for the Middle District of Florida

STATEMENT OF THE CASE

Petitioner, Frederick W. Copeland, is the victim of a conspiracy utilizing certain alleged mysterious public hollering, yelling, broadcasting, publishing or distributing certain alleged slanderous,

libelous and discriminatory remarks by use of certain alleged electronic equipment, gear or paraphernalia designed to harass, intimidate, embarass or otherwise assassinate the character and reputation of petitioner beyond a reasonable doubt. The foregoing harrassment, embarassment, intimidation or discrimination is enacted in such manner that all mankind hears and is annoyed by this criminal action on part of some unknown alleged principals, agents, infamous characters or otherwise unidentified person or persons. However, State in its Motion to Dismiss said that the parties were known and unknown (R. 59). The foregoing is without cease, day and night, wherever petitioner happens to be - church, home, school, private visitations or any other public

gathering in violation of Chapters 823.01 836.05 and 877.03, Florida Statutes, the Constitution of the United States (R. 9) and other citations herein expressed (R. 4-5, 10-11, 12-14 and 66-67).

Petitioner first observed this annoyance and nuisance in 1967 without any action being taken until September 1972 when petitioner filed Complaint in the COUNTY JUDGE'S COURT, IN AND FOR CITRUS COUNTY, FLORIDA and subsequently with the state attorney, FIFTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, Florida Bureau of Law Enforcement, appropriate state officials, and the City of Crystal River, Florida. From 1972 to December 1974, petitioner so discussed, advertised in one form or another the plight or circumstances of petitioner in regard to this public hollering, yelling,

broadcasting, publishing, circulating or distributing certain alleged insinuations, character assissinations, harassment, tantalizing, and discriminatory remarks and statements over the airwaves of Citrus County, Florida, State of Florida and perhaps other territory which disturbed public peace, public health, public well-being or welfare and the peace, liberty and happiness of petitioner. (R. 63-75).

The State did not adequately use its police powers to investigate or protect petitioner from the aforesaid constant harassment, tantalizing, discrimination, slanderous and libelous remarks publicly and openly performed. Hence, petitioner charged State with failure to provide him with his constitutional guaranteed police protection in like

circumstances as any other citizen.

The heretofore described harassment, tantalizing and discrimination is just as public as are the sun, moon and stars in their orbits about planet earth. In fact, everybody knows about petitioner's circumstances. The 44 witnesses who submitted affidavits are only a small segment of population which would be willing to affirm the report (R. 12-57).

ARGUMENT

Petitioner can not legally be subject to this PUBLIC indictment described as mysterious hollering, yelling, broadcasting, publishing, circulating or distributing criminal slanderous, libelous and discriminatory remarks such as "Where are you going", "What are you doing", "Let that thing alone", "Let that woman alone", "Come back here", to synchronize

with action, then yells or screams to height of human voice or higher magnified many times by means of certain alleged electronic equipment, gear of paraphernalia to alert PUBLIC notice. PUBLIC peace, tranquility, and health cannot be so toyed with only to disturb the peace, happiness and liberty of ONE individual in the same social order in violation of Whipple v. City of Milwaukee, State ex rel Bacich v. Huse, Bloom v. State of Illinois, Breithaupt v. Abram, Chaplinsky v. State of New Hampshire and Browder v. Cook. Along with aforesaid harassment, tantalizing and discrimination, through the said same electronic equipment, gear or paraphernalia petitioner is constant held in a system of peonage as a bar to petitioner's travel by the same said PUBLIC

hollering, yelling, broadcasting, publishing, circulating, or distributing said PUBLIC slanderous, libelous and discriminatory remarks thus seeking to destroy petitioner's liberty, happiness and peace without due process of law and equal protection of laws as provided by the Fourteenth Amendment to the United States Constitution and otherwise as provided in the citations below:

Breithaupt v. Abram

Bloom v. State

Paynes v. Lee

Johnson v. Smith

State ex rel. Hawkins v. Luttrell

State v. Berg

Jensen v. Olson

Browder v. Cook

Chaplinsky v. State of New Hampshire

Royce v. Rososco

Hotel and Restaurant Employees' International Alliance Local No. 122 v. Wisconsin Employment Relations Board

Sinclair Refining Co. v. City of Chicago

Bolling v. Sharpe

Favors v. Randall

Gordon v. Garrison

Griffin v. People of State of Illinois

Morey v. Doud

State ex rel. Bacich v. Huse

Whipple v. City of South Milwaukee

Freedman v. Philadelphia Terminal Auction Co.

Chapter 823.01, Florida Statutes

Chapter 836.05, Florida Statutes

Chapter 877.03, Florida Statutes

Federal Rules of Civil Procedure, Rule 60

QUESTIONS PRESENTED

1

WHETHER THE COURT, IN ITS DISCRETION,

WILL AGREE THAT PUBLIC MYSTERIOUS HOLLERING, YELLING, BROADCASTING, PUBLISHING, CIRCULATING, OR DISTRIBUTING CRIMINAL SLANDEROUS, LIBELOUS AND DISCRIMINATORY REMARKS OVER THE AIRWAYS OF CITRUS COUNTY, FLORIDA AND OTHER PLACES ARE IN VIOLATION OF FLORIDA LAW AND FEDERAL LAW?

2

WHETHER THE COURT, IN ITS DISCRETION, WILL ORDER SUCH DISTURBANCES TO CEASE AND DESIST?

3

WHETHER STATE CAN PASSIVELY STAND BY AND WITNESS PETITIONER BEING PUBLICALLY HARASSED, TANTALIZED AND DISCRIMINATED AGAINST, AND UPON DULY JUSTIFIED COMPLAINT FAIL TO INVOKE FLORIDA LAW FOR THE PROTECTION OF PETITIONER?

4

WHETHER THE COURT, IN ITS DISCRETION, WILL AGREE THAT PETITIONER'S RIGHTS HAVE BEEN PREJUDICED IN THIS PUBLIC HOLLERING, YELLING, BROADCASTING, PUBLISHING, CIRCULATING AND DISTRIBUTING CERTAIN SLANDEROUS, LIBELOUS AND DISCRIMINATORY STATEMENTS OVER THE AIRWAYS OF CITRUS COUNTY,FLORIDA?

5

WHETHER THE COURT, IN ITS DISCRETION, WILL ORDER DAMAGES FOR PETITIONER OR AGREE THAT PETITIONER IS PROPERLY, RIGHTLY AND JUSTLY ENTITLED TO COMPENSATORY AND PUNATIVE DAMAGES AGAINST STATE FOR KNOWINGLY AND WILLFULLY REFUSING TO ADEQUATELY PROVIDE PETITIONER WITH ADEQUATE POLICE PROTECTION?

CONCLUSION

The decisions of the UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA and THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT are in direct conflict with the above mentioned decisions and statutes cited. Wherefore, will the Court reverse these decisions and approve the decisions herewith presented as being the correct and proper decisions governing the elements in petitioner's case? And further will the Court grant a writ of certiorari and enter its order quashing and decisions

of the above mentioned Courts, and grant such and further relief as the Court shall deem proper, right and just.

Respectfully submitted,

Frederick W. Copeland
P.O. Box 523
Crystal River, Florida
32629

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT true copy hereof has been furnished via U.S. mail to Honorable Robert Shevin, Attorney General of Florida, Tallahassee, Florida 32304; Honorable Clarence Holmes, Esq., Assistant Attorney General, Department of Legal Affairs, Civil Division, 725 South Calhoun Street, Tallahassee, Florida, 32304; Honorable Reubin O.D. Askew, The Governor of Florida, The Capitol, Tallahassee, Florida 32304;

and Honorable John L. Briggs, United States Attorney, P.O. Box 59, Jacksonville, Florida 32201, on this _____ day of August, A. D. 1975.

_____
Frederick W. Copeland
Petitioner

APPENDIX

Cases:

Bloom v. State of Ill., Ill. 1968, 88 S. Ct. 1477, 391 U.S. 194,

L. Ed. 522, See, also, Cash v. Culver, Fla. 1960, 122 So. 2d 179:

> This clause forbids state from depriving any person of life, liberty or property without due process of law.

Breard v. City of Alexanderia, La., La. 1951, 71 S. Ct. 920, 341

U.S. 622, 95 L. Ed. 1233, 35 A.L.R. 2d 335, rehearing denied 72, S.Ct. 21, 342 U.S. 843, 96 L. Ed. 637:

> Police power of a state extends beyond health, morals and safety, and comprehends duty, within constitutional limitations, to protect well-being and tranquility of community.

Bolling v. Sharpe, App. D.C. 1954, 74 S.Ct. 693, 347 U.S. 497, 98 L.Ed. 884, Opinion supplemented 75 S.Ct. 753, 349 U.S. 294, L. Ed. 1083:

> The concept of equal protection of the laws and due process both stem from American idol of fairness, and are not mutually exclusive, nor are the concepts always inter-

changeable, in that equal protection of laws is a more explicit safeguard or prohibited unfairness than due process of law but a discrimination may nevertheless be so unjustifiable as to be violative of due process.

Breithaupt v. Abram, N.M. 1957 S.Ct. 408, 352 U.S. 432, L.Ed. 2d 448:

Due process is not measured by the yardstick of personal reaction or the sphygmogram of the most sensitive person, but by that whole community sense of decency and fairness that has been woven by common experience into the fabric of acceptable conduct.

Browder v. Cook, D.C. Idaho 1944, 59 F. Supp. 225:

The freedom of the press must not be impaired, but that freedom must not go so far that power of press may be used in violation of rights of an individual and injure him in his good name, office or profession, or hold him up to ridicule, hatred or scorn of his fellowmen.

Chaplinsky v. State of New Hampshire, N.H. 1942, 62 S.Ct. 766, 315 U.S. 568, 86 L.Ed. 1031:

Resort to epithets or personal abuse is not in any proper sense communication of information or

opinion safeguarded (as a criminal) by this Amendment and Amendment I, and is punishment as a criminal act raises no question under the constitution.

Favors v. Randall, D.C. Pa. 1941, 40 F. Supp. 73:

Any state action which denied to any person within its jurisdiction the equal protection of the laws runs afoul of this clause.

Freedman v. Philadelphia Terminals Auction Co., D.C. Pa. 1956, 145 F. Supp. 820:

In passing on defendant's motion to dismiss complaint for failure to state a claim upon which relief could be granted, district court would consider affidavits and depositions with exhibits filed by the parties.

Gordon v. Garrison, D.C. Ill. 1948, 77 F. Supp. 477:

Due process of law and equal protection of the laws are guaranteed not only to citizens but to any person.

Griffin v. People of State of Ill., Ill. 1956, 76 S. Ct. 585, 351 U.S. 12, 100 L. Ed. 891, 55 A.L.R. 2d 1055, rehearing denied 76 S.Ct. 844, 351 U.S. 958, 100 L. Ed. 1480:

There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.

Under due process and this clause destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts.

Hotel and Restaurant Employees' International Alliance, Local #122 v. Wisconsin Employment Relations Board, 1940, 294 N.W. 632, 236 Wis. 329, rehearing denied 295 N.W. 634, 236 Wis. 329,affirmed 62 S. Ct. 706, 315 U.S. 437, 86 L. Ed. 946:

Although the right to speak freely is guaranteed by this Amendment and Const. Wis. Art. 1, Section 3, such right is subject to limitations, and in exercise of the right one is not free from liability for lible, duress, fraud, although speech was agency in each case.

Jensen v. Olson, C.A. Minn. 1965, 353 F. 2d 825:

This clause is not applicable unless one is being deprived of something to which he has a right.

Johnson v. Smith, D.C. Ga. 1968, 295 F. Supp. 835, affirmed 414 F. 2d 645, certiorari denied 90 S. Ct. 975, 397 U.S. 951, 25 L. Ed. 2d 133:

In order for wrong to be subject to redress under this clause it must result from state action or at least, state must have some way of knowing its occurence.

Morey v. Doud, Ill 1957, 77, S. Ct. 1344, 354, U.S. 457, 1 L. Ed. 2d 1485:

Discrimination of an unusual character especially suggestive of careful consideration to determine whether they are obnoxious to this clause.

Paynes v. Lee, C. A. La. 1967, 377 F. 2d 61:

This amendment is only a protection against encroachment upon enumerated rights by or with sanction of state.

Royce v. Rososco, 1936, 287 N.Y.S. 692, 159 Misc. 236:

Police power of state governments is plenary, excepting as limited by express provisions of fundamental law; in that exercise thereof shall not deprive person of life, liberty or property without due process of law.

Sinclair Refining Co. v. City of Chicago, C.A. Ill. 1949, 178 F. 2d 214:

The police power of the state is that power required to be exercised to effectually discharge within scope of constitutional limitations, its paramount obligations to promote and protect the public health, safety, morals, comfort and general welfare of the people.

State v. Berg, 1953, P. 2d 261, 76 Ariz. 96:

This clause is a restriction upon employment of methods in state courts.

State ex rel. Hawkins v. Luttrell, 1968, 424 S.W. 2d 189, 221 Tenn. 32:

This amendment refers to state action and in order to invoke it, state action must be involved.

State ex rel Bacich v. Huse, 1936, 59 P. 2d 1101, 187 Wash. 75, See also, Cotten v. Wilson, 1947, 178 P. 2d 287, 27 Wash. 2d 314:

The purpose of this amendment is to secure equality of treatment of all persons without undue favor or hostile discrimination.

Whipple v. City of South Milwaukee, 1935, 261 N.W. 235, 218 Wis. 395:

This Amendment was intended not only to prevent arbitrary deprivation of life, liberty, or property,

but to give equal protection and security to all under like circumstances in enjoyment of their personal and civil rights, give all persons equal rights, pursue the happiness and acquire and enjoy property, prevent impediments to our suits of anyone except as applied to same pursuits by others under like circumstances, and prohibit laying of greater burdens on one than on others in same calling and condition.

Statutes:

Chapter 823. 01, Florida Statutes:

Indictment for nuisance; removal by justice of peace. - All nuisances which tend to annoy the community or injure the health of the citizens in general, or to corrupt the public morals, shall be indictable and punishable by a fine not exceeding two hundred dollars, at the discretion of the court.

Any nuisance which tends to the immediate annoyance of the citizens in general, or is manifestly injurious to the public health and safety, or tends greatly to corrupt the manners and morals of the people, may be removed and suppressed by order of the justice of the peace of the district, founded upon the verdict of twelve householders of the same, who shall be

summoned, sworn and impaneled for that purpose, which order shall directed to and executed by any sheriff on constable of the county; and an indictment or information shall lie for the same.

Chapter 836.05, Florida Statutes:

Threats; extortion. - Whoever, either verbally or by printed communication, maliciously threatens to accuse another of any crime or offense, or by such communication maliciously threatens an injury to the person, property or reputation of another, or maliciously threatens to expose any secret affecting another, or to impute any deformity or lack of chasity to another, with intent thereby to exhort money or any pecuniary advantage whatever, or with intent to compel the person so threatened, or any other person, to do any act or refrain from doing any act against his will, shall be punished by imprisonment in the state prison not exceeding ten years.

Chapter 877.03, Florida Statutes:

Breach of the peace; disorderly conduct. - Whoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in

such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor, and subject to punishment as provided by law.

Rules:

Federal Rules of Civil Procedure, Rule 73

Federal Rules of Civil Procedure, Rule 60

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

FREDERICK W. COPELAND,
Petitioner

v. No. 74-42-Civ-Oc

PEOPLE OF THE STATE OF FLORIDA,
GOVERNOR OF THE STATE OF FLORIDA,
ATTORNEY GENERAL OF FLORIDA,
Respondents

ORDER

ORDERED:

1. Motion to dismiss and motion to strike, filed herein December 26, 1974, is hereby granted.

2. This case is hereby dismissed, with prejudice, for lack of jurisdiction over the subject matter.

DONE AND ORDERED at Jacksonville, Florida, this 17th day of January, 1975.

Original signed:
CHARLES R. SCOTT
Judge

CC Mr. Frederick W. Copeland
Post Office Box 523
Crystal River,Florida, 32629

Clarence Holmes, Esquire
Assistant Attorney General
725 South Calhoun Street
Tallahassee, Florida, 32304

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

FREDERICK W. COPELAND,
Petitioner,

v.

PEOPLE OF THE STATE OF FLORIDA,
GOVERNOR OF THE STATE OF FLORIDA,
ATTORNEY GENERAL OF FLORIDA,
Respondents

ORDER

ORDERED:

Petitioner's motion for rehearing, filed herein January 24, 1975, is hereby denied.

DONE AND ORDERED at Jacksonville, Florida, this 27th day of January, 1975.

Original signed:
CHARLES R. SCOTT

Copies to:

Mr. Frederick W. Copeland
Post Office Box 523
Crystal River, Florida, 32629

Clarence Holmes, Esquire
Assistant Attorney General
Civil Division
725 South Calhoun Street
Tallahassee, Florida, 32304

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

FREDERICK W. COPELAND,
Petitioner

v. NO. 74-42-Civ-OC

PEOPLE OF THE STATE OF FLORIDA,
GOVERNOR OF THE STATE OF FLORIDA,
ATTORNEY GENERAL OF FLORIDA,
Respondents

ORDER

ORDERED:

Petitioner's motion for leave to appeal out of time, filed herein April 28, 1975,is hereby denied.

DONE AND ORDERED at Jacksonville, Florida, this 2nd day of May, 1975.

Original signed:
CHARLES R. SCOTT
JUDGE

Copies to:

Mr. Frederick W. Copeland
Post Office Box 523
Crystal River, Florida, 32629

Clarence Holmes, Esquire
Assistant Attorney General
Department of Legal Affairs
Civil Division

725 South Calhoun Street
Tallahassee, Florida, 32304

Honorable Reubin O. D. Askew
Governor
The Capitol
Tallahassee, Florida, 32304

United States Attorney (Briggs)
Post Office Box 600
Jacksonville, Florida, 32201

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

Edward W. Wadsworth
Clerk

Office of the
Clerk

Room 408-400 Royal St.
New Orleans, La. 70130
Tel. No. 527-6514

June 11, 1975

MEMORANDUM TO COUNSEL OR PARTIES
LISTED BELOW:

No. --- Frederick W. Copeland vs.
First Federal Savings & Loan
Assoc. of Lake Cty., etc.,
et al.
No. --- Frederick W. Copeland vs.
People of the State of
Florida, et al.

(Dist. Ct. Nos. 74-40 CIV-OC &
74-42 CIV-OC)

Gentlemen:

The following action has this day been taken in the above case:

( ) Motion to consolidate granted.

( ) Motion to supplement or correct record granted.

( ) Motion for leave to file supplemental brief granted.

( ) A stay of mandate has been granted

to and including

( ) The Court's opinion-order on petition for rehearing and petition for rehearing en banc has this day been rendered and a copy thereof is enclosed.

( ) Joint Motion as to time for filing briefs granted.

(x) Order enclosed has been entered.

( )

Very truly yours,

EDWARD W. WADSWORTH, Clerk

By s/ Clare F. Sacks
Deputy Clerk

cc Mr. Frederick W. Copeland
Mr. Robert Shevin
Mr. Charles B. P. Sellar
Mr. John L. Briggs
Mr. Wesley R. Thies, Clerk

P.S. to Mr. Thies: Returned herewith are your original papers. Please acknowledge receipt.
P.S. to Mr. Copeland: Returned herewith is your check No. 99930 in the amount of $100.00, and your original papers.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED: JUNE 11,'75

NO.------

FREDERICK W. COPELAND,
Petitioner

versus

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF LAKE COUNTY, a Corporation, ET AL.,
Respondents

NO.------

FREDERICK W. COPELAND,
Petitioner

versus

PEOPLE OF THE STATE OF FLORIDA, GOVERNOR OF THE STATE OF FLORIDA, ATTORNEY GENERAL OF FLORIDA,
Respondents

- - - - - -

Appeals from the United States District Court for the Middle District of Florida

Before WISDOM, BELL, and CLARK,
Circuit Judges

BY THE COURT:

IT IS ORDERED that the motions filed by petitioner for leave to docket the above referenced appeals out of time are denied.

JMW
JBB
CC